



RAMW

Restaurant Association Metropolitan Washington®

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July 26, 2010

Hilder Gil
Legislative Affairs Specialist
Department of Consumer and Regulatory Affairs
1100 Fourth Street, SW, Room 5164
Washington, DC 20024

**RE: Comments to Notice of Proposed Rule Making
Concerning Vending**

Dear Mr. Gil:

Our organization has over 700 members and is the principle advocate for sit-down restaurants in the District of Columbia. We have reviewed the Notice of Proposed Rulemaking concerning the changes to the vending regulations and have concerns that these regulations have not adequately contemplated the effect of vending locations on District of Columbia restaurants.

RAMW supports vending as a business opportunity for the vending business owner and an opportunity for its customers to have ready access to the goods and services offered. In some instances, a vending business can represent a "laboratory" for a new good or service which are not currently offered at a "bricks and mortar" location, or an opportunity for a new business person to get into business with minimal capital outlay.

The positives of making vending opportunities available, however, must be balanced against the needs and interests of the District's business locations. These business operators frequently invest hundreds of thousands, if not millions, of dollars in developing their permanent storefront locations. In addition, these businesses pay millions in sales taxes, and other fees and taxes associated with operating a permanent location in addition to providing jobs for DC residents. Their permanent locations make it likely that the Office of Tax and Revenue will have little difficulty making sure that all taxes are paid. Accordingly, for all of these reasons, the balance of the interest of vendors and permanent business location operators must assure that vendors not unfairly compete or unreasonably interfere with the operations of permanent businesses.

Furthermore, the District's sidewalk cafes, located on public space adjacent to restaurants, not only generate additional sales tax revenue and provide more jobs, but also give the District an urban feel and international flare. To place a vendor directly in front of or on the sidewalk next to a restaurant is extremely detrimental to the visibility and viability of these businesses.

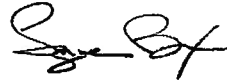
**"Fighting for the Right to Eat, Drink & Be Merry
Hospitably, Responsibly & Profitably!" ®**

Considering all of the above, we make the following recommendations concerning the proposed rules:

<u>Section</u>	<u>Comment</u>
521, Generally	Although this section gives the DDOT Director the authority to designate sidewalk vending locations, it is unclear how these locations will be designated. Further, nowhere is the size of the vending zones prescribed. Will the designations be made on the actual sidewalk, other public spaces, or will there be a map setting forth the locations and detailing the size as well as distances from various impediments on the street?
521.1(c)	Add the following: No sidewalk café Vending Location should be designated within 10 feet of a licensed sidewalk café.
Introductions to 521 (f) and (c)	These introductions are identical. It is confusing that there are two separate subsections with the same introduction. Perhaps these can be combined.
521.1(f)	Add the following: No Class A vending business operation shall operate within 25 feet of the entrance to a licensed restaurant.
529	Add a new subsection as follows: No Class A vending business operator shall be assigned a sidewalk vending location within 25 feet of a licensed restaurant.
532	Delete the word "temporary" in the heading.
532.1	Amend as follows: The Director, the DDOT Director, or MPD may order the relocation of a vendor from a vendor's permitted Vending Location in construction areas, for special events or transportation requirements, or other situations where the Vending Location is unavailable under these regulations, or creates a threat to the public health, safety, or welfare. Relocation may be temporary or permanent.
532.5	Add a new subsection as follows: In the event the Vending Location is in, or adjacent to an area that is proposed to be used for a sidewalk café by a licensed restaurant, the vendor shall be relocated to accommodate the sidewalk café, if the sidewalk café application complies with the public space regulations.

Please let us know if you have questions after you have reviewed these comments and proposed changes. We welcome the opportunity to be involved in the process of finalizing these regulations as they move forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynne Breau", with a stylized flourish at the end.

Lynne Breau
President

cc: Councilmember Jim Graham, Chair,
Council Committee on Public Works
and Transportation
Councilmember Jack Evans, Ward 2
Neil Albert, City Administrator
Valerie Santos, Deputy Mayor
for Economic Development
Gabe Klein, Director, DDOT